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10/519,955	12/30/2004	Kasper Kokkonen	4819-4735	7370
27123	7590	02/25/2009	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			YANG, JIE	
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In re application of
Kokkonen et al.
Serial No. 10/519,955
Filed: December 30, 2004
For: METHOD AND ARRANGEMENT FOR FEEDING AN
ANODE INTO A SMELTING REACTOR

**DECISION ON
PETITION**

This is a decision on the PETITION FROM REQUIREMENT FOR RESTRICTION UNDER 37 CFR §1.144 requesting the restriction requirement in the office action mailed on August 24, 2007 be set aside as improper.

On August 24, 2007 a restriction requirement was mailed to applicants. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4 because the special technical feature linking the claims does not make a contribution over the art. Applicants traversed the restriction requirement in the response filed September 17, 2007. A non-final office action was mailed by the examiner on October 4, 2007, which made the restriction requirement final. A final rejection was mailed March 31, 2008. A request for continued examination was filed June 10, 2008. Another non-final action was mailed on August 7, 2008.

The instant petition was then filed November 7, 2008. Accordingly, the instant petition is timely and will be decided on its merits.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/EP03/04645 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. The PCT Administrative Instructions, Annex B, Part 1 at (b) state that “the special technical features” common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

“those technical features which each of the claimed inventions, considered as a whole, makes over the prior art.” (Emphasis added)

In the instant case, the description and the claims set forth the special technical feature of feeding an anode into a metallurgical smelting reactor and a bending element and radius of curvature.

However the special technical feature(s) have been shown at page 2 of the office action mailed October 4, 2007 to not make a contribution over the prior art of Ikoma (US Patent No. 5,685,892). Therefore, the examiner's findings that there is lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED**. The application remains in pending status awaiting a response to the non-final office action mailed August 7, 2008.

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